make no difference in the result, as that judgment has not been satisfied and the legal title has not passed to the converter; but if it had passed, it would still be impressed with the trust in favor of the second mortgagee, whose action in personam would then be against the sheriff on the equity side of the court. The proper disposition of the case is suggested by LAUGHLIN, J., dissenting.

IMPERFECT IDENTIFICATION OF VENDEE, INDORSEE OR CONSIGNEE.— There is in several branches of the law a situation created by fraud in which uncertainty exists as to whether an ostensible party to a transaction was intended to be such by the actor. When B, representing himself as C, obtains from A the sale of chattels, or the indorsement of a draft, or the shipment of goods by carrier, does he thereby get title, or become the indorsee, or the consignee so as to protect an innocent third party to whom he transfers the goods, or the bank that pays him the draft, or the carrier that delivers the goods to him? Each case supposed involves the analysis of intention with a view to determining substantially the same question, viz. what person has the actor singled out to receive the benefit of a legal disposition he has made or purported to make. Parity of reason dictates that there should be uniformity of decision upon the point in all three branches of the law. Where the transaction is inter præsentes and the impostor acts in his own right and not as agent for another it is almost universally held that he has succeeded in obtaining rights through the transaction under which innocent third parties will be protected. *Robertson* v. *Coleman* (1886) 141 Mass. 231., *Land Title and Trust Co.* v. *N. W. National Bank* (1900) 196 Pa. 230., *Dunbar* v. *Boston etc. R. R. Co.* (1876) 110 Mass. 26.; *Tollman* v. *American Nat. Bk.* (1901) 52 L. R. A. 877, contra. In such a situation it may fairly be argued that the vendee, payee, or consignee intended by the plaintiff, in any other than a highly metaphysical sense, was the person before him, objectively identified as such. By his actual physical presence B has substituted himself effectively for the abstract personality in A's mind.

When the party misrepresenting himself negotiates from a distance, however, a more intricate question is raised. If he communicates by letter in the name of an actual person known to the plaintiff, and the plaintiff, as a result sends a check, is the check intended for the known party or for the impostor who wrote the letter? This question was squarely before the Nebraska court in the recent case of *Hoffman* v. *American Exchange Bank* (1903) 96 N. W. 112. An executor making final distribution of an estate advertised for a certain legatee, C, of whose whereabouts he was ignorant, desiring to remit a balance due him. He had previously made two payments to C, one by mail and one in person. Receiving from an impostor a letter purporting to come from C, the plaintiff sent a draft indorsed specially to C, to the address given. The Court, improperly it seems, refused to allow him to recover from the bank

which paid the draft to the impostor. In negotiations inter absentes there is obviously not that complete identification of the other party which exists where the impostor appears in person. Here the vendor, indorser, or consignor may often intend to deal with a person identified in his mind, partly by attributes of the man personated, partly by attributes of the impostor. For example in the principal case the plaintiff may have identified the person to whom he intended to indorse partly by attributes of the real legatee, partly by attributes of the man from whom he received the letter and address. To the validity of a disposition to an impostor it would seem necessary that he must show that the attribute which was the determining factor of identification was one that applied to him exclusively. If there is a conflict, attributes of each furnishing substantial factors of identification, or if the determining attribute is one of the man he is personating, the impostor must fail. B has not succeeded in substituting his own personality for that of C in the mind of A and consequently cannot be said to have been selected as vendee, indorsee, or consignee. Where, as in the principal case, the actor had actually met the man personated it would seem that nothing short of the actual presence of the impostor should be allowed to effect such a substitution. Certainly his mere handwriting should not be held to effect it. And this is generally held to be the law. *American Express Co.* v. *Stack* (1867) 29 Ind. 27; *Cundy* v. *Lindsay* (1878) L. R. 3 A. C. 459. The difficult problems arise where the vendor, indorser, or consignor has no personal acquaintance with either the man personated or the impostor. It would seem that they should be solved by the application of the principles stated above.

EQUITY JURISDICTION OVER THE ASSIGNMENT OF CHOSES IN ACTION.—Reflecting primitive social conditions, the Common Law found no necessity for affording a means of transferring rights and obligations arising out of a claim in personam. Increasing complexity of commercial ties, however, involved finding a means of assigning such rights. Singularly enough, the English courts, apparently independently, adopted to this end the device of the Roman Law, the letter of attorney. The prosecution of a civil action through an agent was already familiar. To give a third party an interest in a chose in action such as he could have acquired had the same been assignable, was to a great extent accomplished by appointing him an agent with power to collect the claim for his own use. By the middle of the thirteenth century, we find assignments by power of attorney recognized in the English courts of law. 2 Pollock and Maitland, History of Engl. Law, 226–7. The interest of the creditor-agent, being entirely dependent upon the will of his pseudo-principal was, however, liable at any moment to be defeated by the latter's interposition. Resort appears to have been had, in such a case, to the courts of chancery to protect the "assignee." 1 Harvard Law Review 6, 7. The early development